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July 16, 1958

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CONCORD, N.H.

Mr. James J. Barry  
Commissioner of Public Welfare  
State House Annex  
Concord, New Hampshire

Dear Mr. Barry:

We have given careful consideration to your letter of April 9, 1958 in which you requested our opinion as to the application of RSA 166:8 in cases where a recipient of public assistance who has, by operation of that section become the financial responsibility of the county where the recipient last resided before entering a nursing home or other institution, subsequently leaves the institution and moves to a private home.

RSA 166:8 provides as follows:

"Inmates of Homes and Institutions. Any person who is or shall become a pauper or public charge while at any orphans' home, hospital, home of the aged, convalescent home, nursing home, or other such institution, or the New Hampshire state prison, or within three months after leaving such institution, shall be chargeable for support to the county in which he last resided before entering such institution or home, unless such person has a settlement in some town other than the place where such institution is located, or some other county is liable for his support."

The obvious purpose of this section is to render it impossible for patients or inmates in certain institutions to gain a settlement in the towns or cities wherein such institutions are located. Liability for support of a recipient of public assistance, during the period of his residence in an institution defined in the statute and for an additional period of three months after he leaves such institution, is to be determined by reference to his chargeability at the time he entered the institution. If he had a settlement in some town at the time of his entrance, that town remains chargeable until the recipient loses his settlement by five years absence from domicile or otherwise. If recipient loses his settlement at any time during his stay at an institution, or

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within three months after leaving such institution, chargeability for support then shifts to the county where recipient last resided before entering such institution. If at the time he entered the institution recipient had no settlement in any town, the county where he then resided is chargeable from the outset unless some other county is liable for his support.

If a recipient who had a settlement at the time he entered an institution subsequently leaves the institution prior to losing his settlement, enters a private home in some town other than that in which he has a settlement and continues to receive public assistance, the town of settlement will remain chargeable until recipient loses his settlement by five consecutive years of absence from domicile or otherwise.

In answer to your specific inquiry, it is our opinion that if the county where a recipient last resided before entering an institution is or becomes liable for his support under the provisions of RSA 166:8, such county of residence will remain chargeable even though recipient subsequently leaves the institution and enters a private home in some other county if the recipient continues to receive public assistance. In such cases chargeability does not shift to the county wherein the private home is located but remains with the county where recipient last resided before entering the institution until such time as recipient either gains a settlement in the town where the private home is located or in some other town, or loses his status as a pauper or public charge. If on the other hand the county of residence becomes liable by virtue of RSA 166:8, but the patient or inmate subsequently loses his status as a pauper or public charge because of an inheritance or for any other reason, and then leaves the institution, moves to a private home in some other county, remains there more than three months without receiving aid and then applies for public assistance, the provisions of RSA 166:8 are no longer applicable and chargeability must be determined by application of the usual rules with respect to settlement and liability between counties.

It is to be noted that RSA 166:8 merely provides a yardstick to determine chargeability for the support of persons who are or become paupers or public charges while at an institution or within three months after leaving it, and does not place any limitation upon the duration of chargeability once established. This in itself lends support to the position we have taken.

Moreover it must be presumed that the Legislature intended RSA 166:8 to be consistent with other statutory provisions for aid to paupers. Our opinion as to the proper interpretation of RSA 166:8 is the only one which will make that section consistent with RSA 166:10 which provides as follows:

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"166:10 Liability Between Counties. The county which shall have last relieved any county pauper within ninety days shall be liable to the county in which he may afterwards be relieved for all sums of money paid for his relief, support, or funeral, provided he has not resided in the latter county more than ninety days at the time of his first application there for relief. The county in which a person without a legal settlement shall have last resided not less than ninety days shall be liable to the county in which he may afterward make application for relief for all sums of money paid for his relief, support, or funeral, provided he has not resided in the latter county more than ninety days at the time of his first application to the latter county for relief. A copy of any affidavit required by section 4 of this chapter shall be forwarded by the county commissioners liable under section 3 of this chapter to the county commissioners of the county to be charged."

Pursuant to our request of May 6, 1958 you supplied us with specific information in your letter of June 20, 1958 with respect to the following three cases:

Charles A. Maxfield, OAA  
Thomas L. Marshall, CAA  
Doris McDermott, APTD

In the Maxfield case you advise that the recipient's residence record is as follows:

1. State Hospital to Bellmap County Home, April 1955,
2. Accepted for OAA June 30, 1955, Bellmap County legal liability,
3. To private home in Sanbornton, October 7, 1955,
4. To relatives' home in Pittsfield, February 1956,
5. To Bellmap County Infirmary April 7, 1956,
6. To relatives' home in Pittsfield July 3, 1957 to the present.

Assuming that Mr. Maxfield has been a recipient of OAA continuously since June 30, 1955, it is our opinion that Bellmap County will remain liable until Mr. Maxfield either acquires a settlement in Pittsfield or some other town or loses his status as a public charge.

In the Marshall case you supplied the following information:

1. Resided in private boarding home in Jefferson from 1949 to 1953 when he went to a private home in Whitefield,
2. To Harris Hill Nursing Home, Penacook, June 5, 1955,
3. Accepted for OAA June 15, 1955; Coos County accepted liability;
4. To private home in Penacook August 1, 1956,
5. To private home in Loudon February 23, 1958.

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In this case assuming that Mr. Marshall has been on CAA continuously since June 15, 1955, we are of the opinion that Coos County will remain chargeable until Marshall either gains a settlement in London or elsewhere or loses his status as a public charge.

With respect to the McDermott case you supplied the following data:

1. Resided in Hillsborough County Farm from August 31, 1946 to October 1, 1952 when she entered private home in Manchester.
2. Accepted for APTD May 30, 1953; Hillsborough County accepted liability.
3. To a private unlicensed home in Concord, April 2, 1957.

In this case it appears that recipient was not in an institution as defined in RSA 166:8 at the time she was accepted for APTD, and had not been in such an institution at any time within the three months preceding her acceptance. Accordingly, RSA 166:8 is not applicable to this case and chargeability should be determined by application of the usual rules.

Very truly yours,

GTR,Jr/m

George T. Ray, Jr.  
Assistant Attorney General